

# Nuclear Regulatory Commission

# Pt. 30, App. C

Material	Micro-curies
Tellurium-127m .....	10
Tellurium-127 .....	100
Tellurium-129m .....	10
Tellurium-129 .....	100
Tellurium-131m .....	10
Tellurium-132 .....	10
Terbium-160 .....	10
Thallium-200 .....	100
Thallium-201 .....	100
Thallium-202 .....	100
Thallium-204 .....	10
Thorium (natural) <sup>1</sup> .....	100
Thulium-170 .....	10
Thulium-171 .....	10
Tin-113 .....	10
Tin-125 .....	10
Tungsten-181 .....	10
Tungsten-185 .....	10
Tungsten-187 .....	100
Uranium (natural) <sup>2</sup> .....	100
Uranium-233 .....	.01
Uranium-234—Uranium-235 .....	.01
Vanadium-48 .....	10
Xenon-131m .....	1,000
Xenon-133 .....	100
Xenon-135 .....	100
Ytterbium-175 .....	100
Yttrium-90 .....	10
Yttrium-91 .....	10
Yttrium-92 .....	100
Yttrium-93 .....	100
Zinc-65 .....	10
Zinc-69m .....	100
Zinc-69 .....	1,000
Zirconium-93 .....	10
Zirconium-95 .....	10
Zirconium-97 .....	10
Any alpha emitting radionuclide not listed above or mixtures of alpha emitters of unknown composition .....	.01
Any radionuclide other than alpha emitting radionuclides, not listed above or mixtures of beta emitters of unknown composition .....	.1

<sup>1</sup> Based on alpha disintegration rate of Th-232, Th-230 and their daughter products.

<sup>2</sup> Based on alpha disintegration rate of U-238, U-234, and U-235.

NOTE: For purposes of § 20.303, where there is involved a combination of isotopes in known amounts, the limit for the combination should be derived as follows: Determine, for each isotope in the combination, the ratio between the quantity present in the combination and the limit otherwise established for the specific isotope when not in combination. The sum of such ratios for all the isotopes in the combination may not exceed "1" (i.e., "unity").

[35 FR 6425, Apr. 22, 1970, as amended at 36 FR 16898, Aug. 26, 1971; 38 FR 29314, Oct. 24, 1973; 39 FR 23991, June 28, 1974; 45 FR 71763, Oct. 30, 1980. Redesignated at 56 FR 23391, May 21, 1991, and further redesignated at 58 FR 67659, Dec. 22, 1993]

## APPENDIX C TO PART 30—CRITERIA RELATING TO USE OF FINANCIAL TESTS AND SELF GUARANTEES FOR PROVIDING REASONABLE ASSURANCE OF FUNDS FOR DECOMMISSIONING

### I. INTRODUCTION

An applicant or licensee may provide reasonable assurance of the availability of funds for decommissioning based on furnishing its own guarantee that funds will be available for decommissioning costs and on a demonstration that the company passes the financial test of Section II of this appendix. The terms of the self-guarantee are in Section III of this appendix. This appendix establishes criteria for passing the financial test for the self guarantee and establishes the terms for a self-guarantee.

### II. FINANCIAL TEST

A. To pass the financial test a company must meet all of the criteria set forth in this section. For purposes of applying the Appendix C criteria, tangible net worth must be calculated to exclude all intangible assets and the net book value of the nuclear facility and site, and total net worth, which may include intangible assets, must be calculated to exclude the net book value and goodwill of the nuclear facility and site. These criteria include:

(1) Tangible net worth of at least \$21 million, and total net worth at least 10 times the amount of decommissioning funds being assured by a self-guarantee for all decommissioning activities for which the company is responsible as self-guaranteeing licensee and as parent-guarantor for the total of all nuclear facilities or parts thereof (or the current amount required if certification is used).

(2) Assets located in the United States amounting to at least 90 percent of total assets or at least 10 times the amount of decommissioning funds being assured by a self-guarantee, for all decommissioning activities for which the company is responsible as self-guaranteeing licensee and as parent-guarantor for the total of all nuclear facilities or parts thereof (or the current amount required if certification is used).

(3) A current rating for its most recent uninsured, uncollateralized, and unencumbered bond issuance of AAA, AA, or A (including adjustments of + and -) as issued by Standard and Poor's, or Aaa, Aa, or A (including adjustments of 1, 2, or 3) as issued by Moody's.

B. To pass the financial test, a company must meet all of the following additional requirements:

(1) The company must have at least one class of equity securities registered under the Securities Exchange Act of 1934.

(2) The company's independent certified public accountant must compare the data used by the company in the financial test, which is derived from the independently audited, year-end financial statements for the latest fiscal year, with the amounts in such financial statement. The accountant must evaluate the company's off-balance sheet transactions and provide an opinion on whether those transactions could materially adversely affect the company's ability to pay for decommissioning costs. The accountant must verify that a bond rating, if used to demonstrate passage of the financial test, meets the requirements of Section II, paragraph A of this appendix. In connection with the auditing procedure, the licensee must inform the NRC within 90 days of any matters coming to the auditor's attention which cause the auditor to believe that the data specified in the financial test should be adjusted and that the company no longer passes the test.

(3) After the initial financial test, the company must annually pass the test and provide documentation of its continued eligibility to use the self-guarantee to the Commission within 90 days after the close of each succeeding fiscal year.

C. If the licensee no longer meets the requirements of Section II.A. of this appendix, the licensee must send immediate notice to the Commission of its intent to establish alternate financial assurance as specified in the Commission's regulations within 120 days of such notice.

### III. COMPANY SELF-GUARANTEE

The terms of a self-guarantee which an applicant or licensee furnishes must provide that:

A. The guarantee will remain in force unless the licensee sends notice of cancellation by certified mail to the Commission. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by the Commission, as evidenced by the return receipt.

B. The licensee shall provide alternative financial assurance as specified in the Commission's regulations within 90 days following receipt by the Commission of a notice of cancellation of the guarantee.

C. The guarantee and financial test provisions must remain in effect until the Commission has terminated the license or until another financial assurance method acceptable to the Commission has been put in effect by the licensee.

D. The licensee will promptly forward to the Commission and the licensee's independent auditor all reports covering the latest fiscal year filed by the licensee with the Securities and Exchange Commission pursuant to the requirements of section 13 of the Securities and Exchange Act of 1934.

E. (1) If, at any time, the licensee's most recent bond issuance ceases to be rated in any category of "A-" and above by Standard and Poor's or in any category of "A3" and above by Moody's, the licensee will notify the Commission in writing within 20 days after publication of the change by the rating service.

(2) If the licensee's most recent bond issuance ceases to be rated in any category of A or above by both Standard and Poor's and Moody's, the licensee no longer meets the requirements of Section II.A. of this appendix.

F. The applicant or licensee must provide to the Commission a written guarantee (a written commitment by a corporate officer) which states that the licensee will fund and carry out the required decommissioning activities or, upon issuance of an order by the Commission, the licensee will fund the standby trust in the amount guaranteed by the self-guarantee agreement.

G. (1) A standby trust to protect public health and safety and the environment must be established for decommissioning costs before the self-guarantee agreement is submitted.

(2) The trustee and trust must be acceptable to the Commission. An acceptable trustee includes an appropriate State or Federal Government agency or an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a Federal or State agency. The Commission has the right to change the trustee. An acceptable trust will meet the regulatory criteria established in these regulations that govern the issuance of the license for which the guarantor has accepted the obligation to pay for decommissioning costs.

H. The guarantor must agree that if the guarantor admits in writing its inability to pay its debts generally, or makes a general assignment for the benefit of creditors, or any proceeding is instituted by or against the guarantor seeking to adjudicate it as bankrupt or insolvent, or seeking dissolution, liquidation, winding-up, reorganization, arrangement, adjustment, protection, relief or composition of it or its debts under any law relating to bankruptcy, insolvency, or reorganization or relief of debtors, or seeking the entry of an order for relief or the appointment of a receiver, trustee, custodian, or other similar official for the guarantor or for any substantial part of its property, or the guarantor takes any action to authorize or effect any of the actions stated in this paragraph, then the Commission may:

(1) Declare that the financial assurance guaranteed by the self-guarantee agreement is immediately due and payable to the standby trust set up to protect the public health and safety and the environment, without diligence, presentment, demand, protest or

any other notice of any kind, all of which are expressly waived by guarantor; and

(2) Exercise any and all of its other rights under applicable law.

I. The guarantor must notify the NRC, in writing, immediately following the occurrence of any event listed in paragraph H of this appendix, and must include a description of the event, including major creditors, the amounts involved, and the actions taken to assure that the amount of funds guaranteed by the self-guarantee agreement for decommissioning will be transferred to the standby trust as soon as possible.

[58 FR 68730, Dec. 29, 1993; 59 FR 1618, Jan. 12, 1994, as amended at 63 FR 50479, Sept. 22, 1998; 76 FR 35566, June 17, 2011]

#### APPENDIX D TO PART 30—CRITERIA RELATING TO USE OF FINANCIAL TESTS AND SELF-GUARANTEE FOR PROVIDING REASONABLE ASSURANCE OF FUNDS FOR DECOMMISSIONING BY COMMERCIAL COMPANIES THAT HAVE NO OUTSTANDING RATED BONDS

##### I. INTRODUCTION

An applicant or licensee may provide reasonable assurance of the availability of funds for decommissioning based on furnishing its own guarantee that funds will be available for decommissioning costs and on a demonstration that the company passes the financial test of Section II of this appendix. The terms of the self-guarantee are in Section III of this appendix. This appendix establishes criteria for passing the financial test for the self-guarantee and establishes the terms for a self-guarantee.

##### II. FINANCIAL TEST

A. To pass the financial test a company must meet all of the criteria set forth in this section. For purposes of applying the Appendix D criteria, tangible net worth must be calculated to exclude all intangible assets and the net book value of the nuclear facility and site, and total net worth, which may include intangible assets, must be calculated to exclude the net book value and goodwill of the nuclear facility and site. These criteria include:

(1) Tangible net worth of at least \$21 million, and total net worth of at least 10 times the amount of decommissioning funds being assured by a self-guarantee for all decommissioning activities for which the company is responsible as self-guaranteeing licensee and as parent-guarantor for the total of all nuclear facilities or parts thereof (or the current amount required if certification is used).

(2) Assets located in the United States amounting to at least 90 percent of total assets or at least 10 times the total current de-

commissioning cost estimate (or the current amount required if certification is used) for all decommissioning activities for which the company is responsible as self-guaranteeing licensee and as parent-guarantor.

(3) A ratio of cash flow divided by total liabilities greater than 0.15 and a ratio of total liabilities divided by total net worth less than 1.5.

B. In addition, to pass the financial test, a company must meet all of the following requirements:

(1) The company's independent certified public accountant must compare the data used by the company in the financial test, which is derived from the independently audited, year-end financial statements for the latest fiscal year, with the amounts in such financial statement. The accountant must evaluate the company's off-balance sheet transactions and provide an opinion on whether those transactions could materially adversely affect the company's ability to pay for decommissioning costs. In connection with the auditing procedure, the licensee must inform the NRC within 90 days of any matters coming to the auditor's attention which cause the auditor to believe that the data specified in the financial test should be adjusted and that the company no longer passes the test.

(2) After the initial financial test, the company must annually pass the test and provide documentation of its continued eligibility to use the self-guarantee to the Commission within 90 days after the close of each succeeding fiscal year.

(3) If the licensee no longer meets the requirements of paragraph II.A of this appendix, the licensee must send notice to the NRC of intent to establish alternative financial assurance as specified in NRC regulations. The notice must be sent by certified mail, return receipt requested, within 90 days after the end of the fiscal year for which the year end financial data show that the licensee no longer meets the financial test requirements. The licensee must provide alternative financial assurance within 120 days after the end of such fiscal year.

##### III. COMPANY SELF-GUARANTEE

The terms of a self-guarantee which an applicant or licensee furnishes must provide that:

A. The guarantee shall remain in force unless the licensee sends notice of cancellation by certified mail, return receipt requested, to the NRC. Cancellation may not occur until an alternative financial assurance mechanism is in place.

B. The licensee shall provide alternative financial assurance as specified in the regulations within 90 days following receipt by the NRC of a notice of cancellation of the guarantee.